

# STATEMENTS OF POLICY

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 1249]

#### Rescission of the Statement of Policy Clarifying the Conditions under Which Medical Assistance Recipients May Be Considered Homebound

##### *Scope*

This statement of policy applied to providers enrolled in the Medical Assistance (MA) Program who prescribe Home Health Agency (HHA) services and HHAs enrolled in the MA Program systems.

##### *Purpose*

The purpose of this statement of policy is to rescind § 1249.2a, which clarified the conditions under which MA recipients may be considered homebound.

##### *Background*

Based on *Olmstead v. L.C.*, 527 U.S. 681 (1999), the Health Care Financing Administration, now the Centers for Medicare and Medicaid Services, clarified its position that requiring that a person be "homebound" to qualify for Medicaid HHA services violates Federal regulatory requirements in 42 CFR 440.230(c) and 440.240(b) (relating to sufficiency of amount, duration, and scope; and comparability of services for groups). See "Olmstead Update No. 3," Attachment 3(g), available at [www.cms.hhs.gov/smdl/downloads/smd072500b.pdf](http://www.cms.hhs.gov/smdl/downloads/smd072500b.pdf).

As a result, the Department of Public Welfare (Department) revised the HHA regulations to remove the requirement that an MA recipient be homebound to receive HHA services. The regulatory change conforms to the Department's direction of emphasizing home-and-community-based services when appropriate, rather than more restrictive and expensive alternatives such as nursing home care.

##### *Discussion*

Because the Department revised the HHA regulations to remove the requirement that an MA recipient be homebound to receive HHA services, a statement of policy that clarifies the conditions under which MA recipients may be considered homebound is no longer needed. Therefore, the Department is rescinding the statement of policy in § 1249.2a.

##### *Effective Date*

This rescission of this statement of policy is effective upon publication in the *Pennsylvania Bulletin*.

##### *Contact Person*

Questions and comments regarding the rescission of this statement of policy should be directed to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120.

(*Editor's Note:* Title 55 of the *Pennsylvania Code* is amended by deleting a statement of policy in § 1249.2a to read as set forth in Annex A.)

(*Editor's Note:* For a final-form rulemaking relating to this statement of policy, see 37 Pa.B. 2185 (May 12, 2007).)

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-BUL-071. No fiscal impact; (8) recommends adoption.

#### Annex A

**TITLE 55. PUBLIC WELFARE**  
**PART III. MEDICAL ASSISTANCE MANUAL**  
**CHAPTER 1249. HOME HEALTH AGENCY**  
**SERVICES**  
**GENERAL PROVISIONS**

#### § 1249.2a. (Reserved).

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